



Comptroller General  
of the United States  
Washington, D.C. 20548

145663

## Decision

**Matter of:** T.A. Construction Company, Inc.

**File:** B-244674.2; B-247202

**Date:** January 14, 1992

Tomas Aguiler, for the protester.  
Catherine M. Evans, Esq., Office of the General Counsel,  
GAO, participated in the preparation of the decision.

### DIGEST

1. Protest of post-bid opening cancellation of solicitation is untimely where filed more than 10 days after protester is presumed to have received cancellation notice.

2. Protest allegation that agency failed to respond to agency-level protest challenging government estimate of project cost is without merit where cancellation of solicitation constituted adverse agency action on protest.

### DECISION

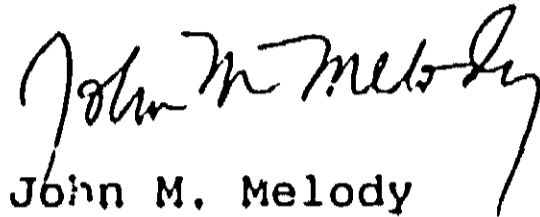
T.A. Construction Company, Inc. protests the Army Corps of Engineers' decision to cancel invitation for bids (IFB) No. DACA27-91-B-0062 after bid opening, and to resolicit the requirement under IFB No. DACA27-92-B-0011. T.A. challenges the agency's determination that the bid prices received were unreasonable.

We dismiss the protest as untimely filed.

Under our Bid Protest Regulations, protests of other than alleged solicitation improprieties must be filed within 10 working days after when the basis for protest was known or should have been known. 4 C.F.R. § 21.2(a)(2) (1991). Here, the agency informed T.A. of the basis for cancellation by letter dated December 4, 1991. Since we presume that T.A. received the letter within 1 calendar week, we conclude that T.A. knew of the cancellation no later than December 11. See TLC Moving, Inc.--Recon., B-234850.2, Apr. 11, 1989, 89-1 CPD ¶ 372. T.A.'s protest, filed in our Office on January 7, 1992, therefore is untimely. See WesternWorld Servs., Inc. d/b/a The Video Tape Co., B-243808, May 14, 1991, 91-1 CPD ¶ 469.

T.A. also complains that the agency improperly resolicited the requirement without responding to its September 30 agency-level protest alleging that the government estimate for the project was too low. There is no merit to this allegation, as the agency's cancellation of the IFB based on unreasonably high bid prices placed T.A. on notice that the agency would not take the requested corrective action regarding the allegedly defective estimates. See, e.g., Sunbelt Indus., Inc.--Recon., B-245780.2, Oct. 29, 1991, 91-2 CPD ¶ 399 (agency's opening of bids without taking requested corrective action constituted constructive notice of adverse agency action on protest).

The protest is dismissed.



John M. Melody  
Assistant General Counsel